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E-mail: gmckeachnie@mckeachnie.com

IN THE EIGHTH JUDICIAL DISTRICT COURT OF DUCHESNE COUNTY

STATE OF UTAH

| IN THE MATTER OF THE GENERAL |) ORDER APPROVING THE 2011 |
|------------------------------|----------------------------------|
| DETERMINATION OF ALL THE |) COMMISSIONER'S REPORT, 2012 |
| RIGHTS TO THE USE OF WATER |) BUDGET AND APPOINTING THE 2012 |
| BOTH SURFACE AND UNDERGROUND |) RIVER COMMISSIONER FOR THE |
| WITHIN THE DRAINAGE AREA OF |) LAKE FORK RIVER, YELLOWSTONE |
| THE UINTAH BASIN IN UTAH |) RIVER AND SAND WASH CREEK |
| |) |
| | Docket No. 3070 |
| | Judge Lyle R. Anderson |
| |) |
| | |

This matter came before the Court on the PETITION TO APPROVE 2011 COMMISSIONER'S REPORT, 2012 BUDGET AND SCHEDULE OF ASSESSMENTS, 2012 SCHEDULE OF DISTRIBUTION AND REQUEST TO APPOINT THE 2012 RIVER COMMISSIONER FOR THE LAKE FORK RIVER AND YELLOWSTONE RIVER AND SAND WASH CREEK, filed by Dale Thomas, Chairman of the Committee for the Lake Fork River, Yellowstone River and Sand Wash Creek, pursuant to Utah Code Ann. §73-5-1 et. seq., petitioning the Court to approve the committee's 2011 report, 2012 budget, appoint a River Commissioner for 2012, authorize it to appoint an interim River Commissioner and approve its 2012 Schedule of

Distribution of Waters of Lake Fork River, Yellowstone River and Sand Wash Creek. The Court having considered the matter, notice having been given to affected parties, and the Court being fully informed in this matter, enters this order.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

- 1. That the 2011 report of the administration of the waters of the Lake Fork River, Yellowstone River and Sand Wash Creek is approved, as submitted and filed herewith.
- 2. That the 2012 budget, with schedule of assessments, is approved, as submitted and attached hereto as "Exhibit A".
- 3. That Leland L. Carter is appointed to serve as River Commissioner of the Lake Fork River, Yellowstone River, and Sand Wash Creek, for a period of one (1) year.
- 4. That the Committee for the Lake Fork River, Yellowstone River, Sand Wash Creek is authorized to appoint a temporary replacement should the River Commissioner be unable to complete the one (1) year term.
- 5. That the proposed 2012 Schedule of Distribution of Waters of the Lake Fork River, Yellowstone River, and Sand Wash Creek is approved, as submitted and attached hereto as "Exhibit B".
- 6. That the following provisions set forth in the 1998 Interim Order be reaffirmed and made effective for the year 2012:
- a. That the River Commissioner be directed to distribute the water of the streams and reservoirs involved in accordance with this Court's Interim Order and to do all things necessary for

the proper and correct measurement, diversion and distribution of said waters, in accordance with the Decrees of the Federal District Court and state laws.

- b. That the River Commissioner is directed to confer with the committee in developing a schedule for distribution of water, specifically, the manner in which the waters of the Lake Fork River, Yellowstone River and Sand Wash Creek, and their tributaries, should be distributed, after consultation with the State Engineer, and shall submit an annual Interim Distribution Order to this Court for its consideration.
- c. That the River Commissioner is directed to deliver and distribute the waters of such non-Federal water rights in the Lake Fork River, Yellowstone River, and Sand Wash Creek, in accordance with the proposed Schedule of Distribution, attached hereto as "Exhibit B".
- d. That the waters for the Federal and non-Federal water rights be distributed in accordance with the terms and limitations of the 1923 Federal Court Decrees in cases numbered 4437 and 4418.
- e. That the River Commissioner is instructed to work with the committee to prepare a recommended budget for the next year. Said recommended budget is to contain assessments to be made, monies to be received, along with a report of expenditures.
- f. That the River Commissioner is authorized to manage the budget, to implement the ordered assessments and collection of assessed amounts from the non-Federal water user organizations or water users, and request assessment and collection from the Bureau of Indian Affairs on the Uintah Indian Irrigation Project, in accordance with the approved budget and schedule of assessments.

- g. That any person or entity, that is a water user in the subject rivers, or otherwise affected by the actions of the River Commissioner, may petition and appear before this Court (about the assessment amounts, the manner in which the water is distributed and/or any other claim relating to the distribution of water). In the event there is a violation of the Court's Order or any part of this Petition or, in the opinion of the River Commissioner, the occurrence of the unauthorized use of water, the River Commissioner is directed to recommend to this Court a solution to the problem, including any remedy to be imposed on the unauthorized water user or violator of the Order.
- h. That if a non-Federal water user fails to pay any assessments levied, when due, that water users further use of water be prohibited.
- i. The job description of the River Commissioner shall include duties and responsibilities as follows:

The Water Commissioner should acquire knowledge of all water rights under his jurisdiction. These water rights will then be distributed to water companies in a timely and fair manner. All water delivery will need to be recorded and presented as requested by water users and state entities with the inclusion of a final year end report.

The River Commissioner is responsible for all water changes and must be available on a daily basis. The River Commissioner will physically open head gates and make sure that measuring devices are accurate and that recording devices are

working properly. He will periodically check recording devices as required throughout the season, or more often if necessary.

The River Commissioner will monitor rivers in his jurisdiction to determine when flows need to be changed. All canal companies' use, no matter where the water comes from, needs to be recorded and reported weekly.

The Commissioner will be responsible for payment of bills. All checks must be cosigned by a member of his River Committee. Any purchase over \$200.00 must be pre-approved by the River Committee.

A weekly report of water usage for each company should be mailed to the company or made available on the internet.

The River Commissioner may find inappropriate water usage on the river. It is his responsibility to reduce this and, if possible, eliminate it. This may include resolving conflicts with individuals, getting help from the River Committee, involving the State Engineer's help or ultimately involving the State District Court. The methods used to resolve the problems should start easy and simple and pleasant as possible and go on to the next stage only as needed.

The year end report needs to be accurate and complete for all companies and ready for the River Committee budget meeting no later than December 1st.

7. The Commissioner has had problems at the Blood Draw Diversion and despite conversations with the water users from that diversion has been unable to remedy the problem. New

diversion works need to be installed which is the responsibility of the water users at that diversion. The commissioner has estimated after talking with people who perform the kind of work that needs to be done that the cost of the new diversion works will be approximately \$4,500.00 The committee requests the Court to authorize the commissioner to hire the work necessary to construct the new diversion works and assess the water users the cost of that work. If the water users do not accomplish the necessary work within a reasonable time set by the commissioner

DATED this May of May , 2012.

BY THE COURT:

MAILING CERTIFICATE

I, Tina L. Hemstreet, an employed by the office of McKeachnie Law Offices, P. C. attorneys for Petitioners herein and hereby certify that I served the attached ORDER APPROVING THE 2011 COMMISSIONER'S REPORT, 2012 BUDGET, AND APPOINTING THE 2012 RIVER COMMISSIONER FOR THE LAKE FORK RIVER, YELLOWSTONE RIVER AND SAND WASH CREEK by placing a true and correct copy thereon in an envelope addressed to:

LELAND L CARTER RIVER COMMISSIONER P O BOX 4 ROOSEVELT UT 84066

GRANT VAUGHN OFFICE OF THE SOLICITOR 125 S STATE STREET STE 6201 SALT LAKE CITY UT 84138

ASSOCIATED WATER USERS DRY GULCH IRRIGATION P O BOX 265 ROOSEVELT UT 84066

DALE THOMAS CHAIRMAN IRRIGATION SYSTEMS MANAGER UINTAH AND OURAY AGENCY P O BOX 130 FT DUCHESNE UT 84026 JOHN K MANGUM ASSISTANT U S ATTORNEY 185 S STATE STE 400 SALT LAKE CITY UT 84111

LEE SIMMS WATER RIGHTS DIVISION P O BOX 146300 SALT LAKE CITY UT 84114-6300

NORMAN JOHNSON ASSISTANT ATTORNEY GENERAL 1594 WEST NORTH TEMPLE #300 SALT LAKE CITY UT 84114-6300

UTE INDIAN TRIBE C/O JOANNE HARMON CURRY FREDERICKS PEEBLES & MORGAN LLP 1900 PLAZA DR LOUISVILLE CO 80027

and deposited the same, sealed, with first class postage prepaid

thereon, in the United States mail at Vernal, Utah, on the __// day of

Tina L. Hemstreet

Budget 2012

| | | 2012 Year |
|---|---|---|
| Salary Off river automation costs Milage F.I.C.A Unemployment Workers Comp. Insurance Office Supply Association Of Water Users Equipment, Repairs, Etc Office O & M Publish Annual Report Phone Property Misc. Retirement Training Expense Legal Fees | * | 67,600.00 2,000.00 9,000.00 5,325.00 450.00 1,750.00 200.00 1,375.00 3,500.00 1,000.00 1,200.00 1,200.00 1,200.00 |
| Total | \$ | 95,380.00 |

Assessment for 2012 Budget

| Appropriator | 2011 Amount Diverted Ac.Ft. | 2012 Assessment |
|-------------------------------|--------------------------------|--------------------|
| Crystal Ranch | 10.0 | \$ 54.79 |
| Dry Gulch Irr. Co | 15271.8 | \$ 7,370.85 |
| Uintah Area Lake Fork Area | 69271.9 | \$ 33,256.89 |
| Farnsworth Canal & Res. Co. | 40546.7 | \$ 19,486.88 |
| Hanson, Gordon Family | 50.0 | \$ 73.97 |
| Hartman Family | 300.0 | \$ 193.81 |
| Lake Fork Irr. Co. | 5400.6 | \$ 2,638.89 |
| Lake Fork Western Irr. Co. | 6363.1 | \$ 3,100.28 |
| Lusty Cattle Inc. | 22.0 | \$ 60.55 |
| Monarch Canal & Res. Co | 333.2 | \$ 209.73 |
| Roosevelt City | 532.8 | \$ 305.41 |
| Rowley Ditch | 15.0 | \$ 57.19 |
| Sandwash Irrigation Co. | 2123.7 | \$ 1,068.04 |
| South Boneta Ditch Co. | 1498.8 | \$ 768.48 |
| TN Dodd Irr. Co. | 761.7 | \$ 415.14 |
| Uteland | 3350.6 | \$ 1,656.18 |
| Total Associated Water | 145851.9 | \$ 70,717.07 |
| Uintah Project | 51344.3 | \$ 24,662.93 |
| Total Entire System | 197196.2 | \$ 95,380.00 |

LAKE FORK DISTRIBUTION

| 43-3098 43-3245 43-3333 43-3239 43-2538 43-2501 43-1850 | 43-3192 43-1699 43-467 | 43-3201 43-3200 43-3196 | 43-2534 43-3096 43-3069 | 43-3165 43-1716 -3164 | 43-2533 43-3154 43-3206 | 43-1710 43-1709 43-1717 | 43-3125 | 43-3106 43-3117 43-3122 | 43-3089 43-1695 43-3098 43-3099 43-3103 -2535 | ¥22# |
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| 13233 17978 13056 8298 8300 30028 | 9383 3945 13412 | 9799 9796 9628 | 8532 3268 1711 | 7645 7901 7644 83863 | 7130 7130 10124 | 6355 6355 6355 6355 | 4872 5061 5662 | 3800a 4203 4614 4684 | 2883 3198 3369 3466 3575 3575 | Appl. # |
| 4490 5889 | 2173 | 1866 1865 2272 | 1102 1747 | 1864 2254 1863 | 1017 2050 | 2252 2251 2253 | 474 1617 701 | 949 1749 868 2010 | 1746 398 1745 1584 1499 | Cert.# |
| Rue Miles Moon Lake Water Us Moon Lake Water Us Moon Lake Water Us Moon Lake Water Us Clarence J. Murray | I. Warren Odekirk Myton City Moon Lake Water Us | Moon Lake Water Us Moon Lake Water Us Moon Lake Water Us Geo F Fisher Jr. | Moon Lake Water Us Uintah Power & Light Dry Gulch Irrigation | Moon Lake Water Us Moon Lake Water Us Moon Lake Water Us Farnsworth Canal Co. | Uteland Ditch/Waugh Uteland Ditch Co. Moon Lake Water Us | Moon Lake Water Us Moon Lake Water Us Moon Lake Water Us Moon Lake Water Us | Sharpstone Bryant Gilbert Ephraim Lambert | Uteland Ditch Co. Lake Fk Irrigation Co. Arthur Barney Moon Lake Water Us | Dry Gulch Irrigation Clark & Ada M. Lusty Dry Gulch Irrigation Uteland Ditch/Danek So. Boneta Irrig. Co. First Security Bank | |
| 12/08/1942 08/13/1946 02/29/1952 08/08/1953 08/08/1953 07/07/1958 | 01/16/1934 03/04/1940 11/09/1940 | 08/1//1925 05/11/1926 04/27/1928 11/29/1929 | 05/03/1920 03/14/1921 05/12/1924 | 11/07/1918 03/24/1919 11/18/1919 | 01/22/1917 03/04/1917 02/25/1918 | 07/28/1915 07/28/1915 07/28/1915 01/22/1917 | 09/26/1912 02/13/1913 03/26/1914 | 08/26/1911 08/26/1911 04/12/1912 05/22/1912 | 05/09/1910 07/06/1910 07/06/1910 08/20/1910 10/06/1910 12/29/1910 | Priority Date |
| 1.59 330.00 66:22 2.50 | 1.80 2.00 | 2.28 | 25.00 4.00 | | 0.15 0.59 | | 0.26 | 12.00 0.36 | 1.08 42.00 5.26 8.80 | Flow S cfs 2.67 |
| 400 500 88.7 | 620 | 30 104 | 640 | 1700 334 1350 | 115 | 759 1500 25000 | 0 | 730 | 14000 | Storage |
| IRR Power IRR IRR IRR | D RR | | RR R R | | | | Flour Mill | | | Úse IRR/DOM |
| Sandwashj/Browns Dr Sam and Pipes Superior Lake Five Point Lake | East & Middle Timothy | White Miller Lake Deer Lake Rowley Ditch | Headgate Payne Canal Drift, Bluebell, Spider | Farnsworth Callar Farmers Lake Twin Pots Reservoir | Purdy Ditch Water Lily Lake | Kidney/Brown Duck Farnsworth Canal Moon Lake Reservoir | Ditch Headgate & Ditch Farnsworth Canal | Ditch Ditch Clement Lake Crystal Ditch | Hamilton Ditch Diverling Dam Uteland Canal So. Boneta Ditch Moon Lake Reservoir Uteland Ditch | Canal Payne Canal |
| | | Yellowstone Yellowstone Lake Fork | Lake Fork Yellowstone Yellowstone | Yellowstone Lake Fork WF Lake Fork | Lake Fork Yellowstone | WF Lake Fork WF Lake Fork WF Lake Fork | Lake Fork Lake Fork WF Lake Fork | Lake Fork Lake Fork Yellowstone | Yellowstone Lake Fork Lake Fork WF Lake Fork Lake Fork | Source EF Lake Fork |
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LAKE FORK DISTRIBUTION Flow Storage

| 43-1718 43-10363 43-1691 43-3077 43-3084 43-1719 43-3088 | 43-3068 43-3071 43-3073 43-10362 | 43-1110/ -3031 43-1687 43-3056 43-3055 43-3032 43-3065 | 43-3025 43-3024 43-10375 43-3029 43-2503 43-3030 | WR# 43-3013 43-3020 43-3014 43-1682 1-1683 43-1686 43-1686 43-3021 43-3022 43-3028 43-3028 43-3028 | |
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| 1931 1931 2040 2091 2548 2609 2797 | | 460 460a 491 883a 883 883 128 1178 | | Appl. # 360 402 360a 359a 359a 359a 366 385 403 402a 416c 4166 4166 | |
| 1464 1464 999 1411 836 3152 540 | 1471 1422 488 1464 | 1850 153 460 425 389 880 994 | 2061 2060 2070 2070 2070 2069 2265 | Cert. # 1231 1171 1215 1213 1214 1217 1220 1228 1175 1228 1175 1229 1669 2045 | |
| Altamont Land & Dev. Uteland Ditch Co. Dry Gulch Irrigation Uteland Ditch/Hagber Farnsworth Canal Co. Irrig. Farms Mortgage | Timothy/Goniotakis Dry Gulch Irrigation Uteland Ditch Co. Altamont Land & Dev. | Lake Fk Irrigation Co. Clark & Ada M. Lusty Uteland Ditch Co. Purdy, Hardy, Solomo Lake Fk Irrigation Co. Lake Fk Western Irr. C Clark & Ada M. Lusty | Dry Gulch Irrigation Dry Gulch Irrigation Dry Gulch Irr/Mitchell Dry Gulch Irrigation Dry Gulch Irrigation Dry Gulch Irrigation Dry Gulch Irrigation | Appropriator Indian Irrigation Servi Indian Irrigation Co. Dry Gulch Irrigation Dry Gulch Irrigation Lake Fk Irrigation Co. | |
| 07/03/1908 08/20/1908 08/25/1908 09/25/1908 07/01/1909 07/31/1909 11/06/1909 | 01/07/1908 02/17/1908 05/25/1908 07/03/1908 07/03/1908 | 08/29/1905 09/08/1905 04/26/1906 04/26/1906 09/17/1906 03/02/1907 07/07/1907 | 0//31/1905 07/31/1905 08/19/1905 08/19/1905 08/19/1905 08/29/1905 | Priority Date 01/01/1861 01/01/1861 01/01/1861 01/01/1861 01/01/1861 01/01/1861 01/01/1861 01/01/1861 01/01/1861 01/01/1861 01/01/1861 01/01/1861 07/31/1905 07/31/1905 | |
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| 26.94 | 28 | | 70 9204 651 | <u>n</u> | Storage |
| FC/Stock IRR IRR IRR IRR | IRR/DOM IRR FC/Slock IRR | | FC/Stock IRR IRR IRR IRR | IRR IRR IRR IRR IRR IRR IRR IRR IRR IRR | |
| 2 Reservoirs McAfee Ditch Payne Canal Uteland Ditch Farnsworth Canal Purdy Ditch | Payne Canal Uteland Ditch 3 Reservoirs Farnsworth Canal | Dry Guich #2 Callaid Hamilton Ditch Uteland Ditch Purdy Ditch LF Western Canal LF Western Canal Knudsen Ditch Payne Canal | Dry Gulch #1 Canal 6 Reservoirs Dry Gulch #2 Canal Payne Canal DG#1/DG#2/Payne Lake Fork Canal No. | Lake Fork Canal Lake Fork Canal Lake Fork Canal Payne Canal Payne Canal Pay Gulch Canal Red Cap Canal Dry Gulch Canal Dry Gulch Canal Uteland Ditch Payne Canal Dry Gulch #2 Canal Dry Gulch #1 Canal | Canal |
| WF Lake Fork Lake Fork Yellowstone Lake Fork WF Lake Fork Lake Fork | Lake Fork Lake Fork WF Lake F | Lake Fork Lake Fork Lake Fork Lake Fork Lake Fork Lake Fork Yellowstone | Yellowstone & Lake Fork Lake Fork Lake Fork Lake Fork Lake Fork 1 Lake Fork | Lake Fork | Source |
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LAKE FORK DISTRIBUTION

| Canal Dam and Ditch Dam and Ditch Ditch Reservoir No. 1 Rnamed Reservoir Lake Fork Reservoir Big Sand Wash Res Ditch | Dam and Ditch Dam and Ditch Ditch Trib. to Lake Fork Unnamed Reservoir Lake Fork Reservoir Big Sand Wash Res Trib. to Lake Fork Trib. to Lake Fork |
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| | | 3/1 - 11/30 | 11 1257 | 10/31 1257 | 3/15 - 10/31 Civil 1257 | 4/1 - 10/31 | 5/1 - 10/12 Civil 5723 |)ct. 31 | PERIOD OF USE | REVISED |
| | | Sand Wash | Sand Wash | | Sand Wash | Sand Wash | Sand Wash | Blood Draw Trib. to Sand Wash | SOURCE & DITCH | 1980) |
| | | A.17978 B Election R | A.10011 Cert.1654 0 | 1 = = = | | A.6960 Cert.2063 | A.5772 Cert.2039 | Civil 1257Bruce 1 | CERT. NO. | |
| | | Board of Water Resources | Oscar Nelson | George Potts (Now Leland Potts) | ianial J. Mi | Dry Gulch Irr. Co. | Sand Wash Irr. Co. | Bruce Hartman | CLAIMANT | PRIORITY SCHEDULE |
| | | 9 | 43- 3203 | ωω | | 43- 31 50 | 43- | 1957 | CLAIM NO. | 71- |
| - | 2,000.0 | , 1 | 90 9 | 54.9 | . 1032.3 | 247.3 sokesupp | 959.06 - c.+ | 45.40 | TOTAL | |
| | | | | | | S. S | المراجعة | | CLAIMS USED FOR SAME ACREAGE | |
| | | | | | | 1453.71 | 1964.0 | , | ACRE | RE: Adj. |
| | | | | | | | ments of 42.0375 acres Original right amended by | Limited to the Irr. Requirements of 24.4375 acres | REMARKS | dj. Paoe |

EXHIBIT "B"